



THE CITY OF NEW YORK
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September 17, 2020

BY ECF

Honorable Peggy Kuo
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Takeisha Reid v. City of New York, et al., 20-CV-3926 (FB)(PK)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Georgia Pestana, Acting Corporation Counsel of the City of New York, and the attorney representing the defendant City of New York¹ in the above-referenced case. Defendant City writes respectfully to request a 60-day extension of time, from September 17, 2020 to November 16, 2020, to answer or otherwise respond to the Complaint. In addition, defendant City hopes that the Court will, *sua sponte*, likewise extend defendant Detective Gregory Howard's time to respond to the Complaint to November 16, 2020. This is defendant City's first request for an extension of time to respond to the Complaint. Plaintiff's counsel, Vikrant Pawar, Esq., consents to this request.

Plaintiff brings this action pursuant to 42 U.S.C. § 1983 and state law asserting claims of, *inter alia*, unlawful seizure, violation of substantive due process, harassment, intentional infliction of emotional distress, and negligence. On August 27, 2020, the City was served with the Complaint. Accordingly, pursuant to Federal Rule of Civil Procedure 12, defendant City's response to the Complaint is due today, September 17, 2020. In accordance with this Office's obligations under Federal Rule of Civil Procedure 11, this Office requires additional time to obtain the underlying records and to investigate the allegations set forth in the Complaint. Accordingly, defendant City respectfully requests a 60-day extension of time, to November 16, 2020, to answer or otherwise respond to the Complaint.

¹ Plaintiff purports to name the New York City Police Department ("NYPD") as a defendant in this matter. The NYPD, however, is a non-suable entity. Jenkins v. City of New York, 478 F.3d 76, 93 n.19 (2d Cir. 2007); Wray v. City of New York, 340 F. Supp. 2d 291, 303 (E.D.N.Y. 2004) (quoting N.Y.C. Charter § 396 ("All actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the City of New York and not in that of any agency, except where otherwise provided by law.")).

In addition, defendant City hopes that the Court will *sua sponte* extend the time for defendant Detective Gregory Howard to respond to the Complaint, which will allow this Office time to conduct an inquiry to determine whether it will represent him in this matter. On September 17, 2020, plaintiff filed an affidavit of service indicating that Detective Howard was served with the Complaint on September 9, 2020. (ECF No. 9.) Accordingly, his response is due on September 30, 2020. As this Office has not yet determined whether it will represent Detective Howard, this application is not made on his behalf. However, given the time involved in determining the representation of an employee of the New York City Police Department, this Office hopes that the Court will *sua sponte* extend his time to answer, so that his defenses are not jeopardized while this Office determines representation. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). In the interest of judicial economy, defendant City hopes that the Court will extend Detective Howard's time to respond to the Complaint to November 16, 2020, so that the City and Detective Howard may respond at the same time.

Defendant City thanks the Court for its time and consideration herein.

Respectfully submitted,



Geoffrey M. Stannard
Assistant Corporation Counsel

cc: **BY ECF**
Vikrant Pawar, Esq., *Attorney for Plaintiff*